



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Barbosa Group, Inc.

**File:** B-261395

**Date:** May 24, 1995

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### DECISION

Barbosa Group, Inc. protests the rejection of its proposal as late under solicitation No. DTFA02-94-R-40338 issued by the Department of Transportation, Federal Aviation Administration. Barbosa contends that even though received late, the proposal should be considered for award because the late arrival was caused by a missing solicitation page that it received only 2 days before proposals were due and by unforeseen airline mechanical problems. Barbosa asserts that had it received the missing page earlier, it would have been able to use commercial carrier services and not attempt a last-minute hand delivery of the offer during which it encountered the airline delays.

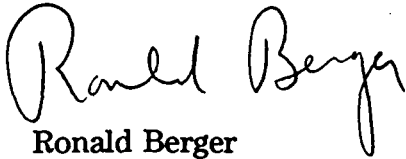
A late proposal may be considered only where (1) it was sent by registered or certified mail no later than 5 calendar days before the date specified for receipt of offers; (2) it was sent by mail, or, if authorized by the solicitation, by telegram or facsimile, and it was determined that late receipt was due solely to government mishandling after receipt at the government installation; or (3) it was sent by U.S. Postal Service Express Mail Next Day Service no later than 5 p.m. at the place of mailing 2 working days prior to the date specified for receipt of proposals. See Federal Acquisition Regulation §§ 15.412, 52.215-10. Hand-carried proposals may also be considered, even though received late, if the lateness was due to improper government action. The Chappy Corp., B-252757, July 20, 1993, 93-2 CPD ¶ 44.

Barbosa's proposal may not be accepted on the basis of airline mechanical problems, as travel delays are risks borne by the offeror, not the government. See T.E. DeLoss Equip. Rentals, B-214029, July 10, 1984, 84-2 CPD ¶ 35; Phelps-Stokes Fund, B-194347, May 21, 1979, 79-1 CPD ¶ 366. As for the incomplete solicitation, Barbosa was aware of this defect prior to the closing date and was aware of the

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time remaining to the closing date once it received the missing page. If Barbosa believed that it had insufficient time to properly prepare and submit its offer, it should have protested<sup>1</sup> to the agency (or our Office) prior to the closing time for receipt of proposals.

The protest is dismissed.

A handwritten signature in cursive script that reads "Ronald Berger". The signature is written in dark ink and is positioned above the printed name and title.

Ronald Berger  
Associate General Counsel

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<sup>1</sup>Our Bid Protest Regulations specifically require that protests based upon alleged improprieties in a solicitation which are apparent prior to the closing date for receipt of initial proposals must be filed prior to the closing time.  
4 C.F.R. § 21.2(a)(1); Engelhard Corp., B-237824, Mar. 23, 1990, 90-1 CPD ¶ 324.